



August 6, 2020

EXE-SE-2020-68-02435

Waukesha Parkway LLC
Robert Bach
201 E Pittsburgh Ave. Ste. 201
Milwaukee, WI 53204

RE: Artificial Wetland Exemption Determination for an area described as specific portions of Wetlands 1 and 2, located in the SW 1/4 of the SE 1/4 of Section 17, Township 06 North, Range 19 East, City of Waukesha, Waukesha County

Dear Mr. or Ms. Bach:

This letter is in response to your request for an artificial wetland exemption determination for the above mentioned wetlands.

According to 281.36 (4n), State Statutes, a landscape feature where hydrophytic vegetation may be present as a result of human modification to the landscape or hydrology and for which no definitive evidence exists showing a prior wetland or stream history before August 1, 1991, may be exempt from state wetland regulations. The following types of artificial wetlands cannot be exempted from state wetland regulation:

- 1) a wetland that serves as a fish spawning area or that is passage to a fish spawning area
- 2) a wetland created as a result of a wetland mitigation requirement.

In addition, DNR must also consider whether the artificial wetland is providing significant flood protection to adjacent or downstream properties and infrastructure, and/or significant water quality functions to adjacent or downstream water bodies.

The Department reviewed the following materials to aid in our exemption determination:

- The request narrative
- Historic Maps, including the Original Land Survey Plat, Bordner Survey, USGS topographic Quad maps, and soil mapping.
- Aerial photographs, including the 1937 photograph, a pre-construction photograph, and a post-construction photograph.
- Site photographs that show different angles and views of the wetland

Below is a summary of our findings:

Request Narrative

According to the request narrative, "None of the pre-1976 aerials or topo maps indicated a natural linear depression between wetlands 1 and 2, confirming that this wetland was created as a roadside ditch. It can be noted that Wetland 2 on the northwest side of the ditch is seen as far

back as the 1937 aerial, but there is no evidence of the ditch prior to the adjacent road construction. This is in congruence with the wetland delineation report, which calls the area out as a ditch.”

Historic Map Review

- Original Land Survey Plat. The original land survey indicates the study area to be clear of mapped wetlands or waterways.
- Bordner Survey. The Bordner survey indicates the study area was mapped as “cleared crop land.”
- 1960 and 1976 USGS Topographic Quad map: The USGS Quad map indicates the study area to be clear of mapped wetlands or waterways.
- Soil Maps: The soil maps indicate the study area to consist of:
 - Aztalan loam, 0-2% slopes. This is non-hydric soil type with 10% minor hydric components in depressions.
 - Warsaw loam, 2-6% slopes. This is non-hydric soil type with no minor hydric components.

Aerial Photograph Review

- 1937 aerial photograph. The 1937 aerial photograph shows the study area to be cropped farm fields with no wetness signatures or definitive wetlands present.
- Pre-construction aerial photograph: The 1970 aerial photograph shows the study area to be comprised of cropped farm fields. Les Paul Parkway was not constructed at this time. One linear wetness signature but no definitive wetlands can be seen running perpendicular to the wetland area now in question in the roadside ditch along Les Paul Parkway.
- Post-construction aerial photograph: The 1995 aerial photograph shows roadside ditches on the south side of Les Paul Parkway where the wetlands are now found. Saylesville Road to the west was not constructed at this time. The 1997 shows mass grading occurring due to the interchange construction for WI-59-E and Saylesville Road to the west. This grading extended to the east on the south side of WI-59-E where the wetlands in question are now located. The 2000, 2005, 2007, 2010, 2015, 2017, and 2018 aerial photographs show the area of the wetland subject to this artificial exemption to be part of a much longer man-made stormwater conveyance feature that continues to the northwest in a roadside ditch along the south side of WI-59 E before turning and following Saylesville Road to the southwest.

Site Photographs

The site photographs show one section of the wetland area in question which has a visible culvert feeding into a man made stormwater conveyance feature adjacent to the roadway along the northern boundary of the project area.

Conclusion:

- Based upon the information provided above, the wetlands identified as the specified portions of Wetlands 1 and 2 lacked a wetland history prior to August 1, 1991 and fulfill all artificial wetland exemption standards. Therefore, the specified portions of Wetlands 1 and 2 are exempt from state wetland regulations.

This letter describes DNR’s decision regarding the jurisdictional status of the specified portions of Wetlands 1 and 2 and is only valid for state jurisdictional purposes. For decisions regarding the

federal jurisdictional status of the specified portions of Wetlands 1 and 2 you will need to contact the U.S. Army Corps of Engineers.

If you have any questions about this determination, please contact me at (920) 296-6507 or email marty.dillenburg@wisconsin.gov.

Sincerely,

A handwritten signature in cursive script, appearing to read "Marty Dillenburg".

Marty Dillenburg
Wetland Exemption Specialist

cc: Breeyn Greer, (612) 232-7343, Consultant, Kapur & Associates
U.S. Army Corps of Engineers, usace_requests_wi@usace.army.mil
Chris Jors, (262) 953-3246, Sr. Specialist-Biologist, SEWRPC